

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

KRYSTAL YBARRA
Plaintiff

v.

DANIEL JOSEPH SCHMIESING and
STANDARD AERO AVIATION
HOLDINGS, INC.
Defendants

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CASE NO. 5:22-cv-230

DEFENDANT STANDARD AERO AVIATION HOLDINGS, INC.'S
NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

STANDARD AERO AVIATION HOLDINGS, INC. files this Notice of Removal
Pursuant to 28 U.S.C. § 1446(a) and respectfully shows the Court the following:

Procedural Background

1. On May 13, 2021, Plaintiff filed her Original Petition in the matter titled *Krystal Ybarra v. Daniel Joseph Schmiesing*, Cause No. 2021CI09602, in the 408th Judicial District Court, Bexar County, Texas. Defendant Daniel Joseph Schmiesing was served and previously filed his Answer in the District Court, Bexar County, Texas. Currently, Defendant Daniel Joseph Schmiesing is, and was during all relevant times, a resident of the State of Tennessee. Pursuant to 28 U.S.C. § 1446(b)(1)(C) Defendant Daniel Joseph Schmiesing gives notice of his consent to the removal.

2. On February 1, 2022, Plaintiff filed her Amended Petition, naming as a Defendant, STANDARD AERO AVIATION HOLDINGS, INC. Defendant

STANDARD AERO AVIATION HOLDINGS, INC. was served on February 11, 2022, with Plaintiff's First Amended Original Petition.

3. Defendant STANDARD AERO AVIATION HOLDINGS, INC. files this Notice of Removal pursuant to 28 U.S.C. § 1446 to remove the State Court Action from the 408th Judicial District of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division.

Nature of Suit

4. Plaintiff's cause of action arises out of a motor vehicle accident which occurred on May 22, 2020 in San Antonio, Bexar County, Texas. Plaintiff alleges that defendant, Daniel Joseph Schmiesing while driving a 2019 Ford Explorer entered an intersection in violation of a red signal light causing a minor collision between Mr. Schmiesing's vehicle and the vehicle in which Plaintiff, Krystal Ybarra was a passenger. Ms. Ybarra alleges that in the minor motor vehicle accident, caused by the negligence of Mr. Schmiesing, she suffered injuries to her neck and back for which she needs cervical and lumbar surgery.

5. In her First Amended Original Petition, Ms. Ybarra named Defendant STANDARD AERO AVIATION HOLDINGS, INC. as the employer of Mr. Schmiesing and alleges that STANDARD AERO AVIATION HOLDINGS, INC is liable pursuant to the doctrine of *respondent superior* for the negligence of Mr. Schmiesing. Ms. Ybarra also alleges that STANDARD AERO AVIATION HOLDINGS, INC is liable for her injuries and damages because of their negligence in hiring, training, and supervising Mr. Schmiesing,

Ms. Ybarra is seeking damages, both in the past and in the future, for her physical pain and mental anguish, medical expenses, physical impairment, disfigurement, lost wages and loss of wage-earning capacity.

Basis for Removal

5. The Court has jurisdiction over this action under 28 U.S.C. 1332 because there is and was complete diversity between all real parties in interest and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In Plaintiff's First Amended Original Petition, Plaintiff seeks more than \$250,000.00 in actual and consequential damages.

6. At the time this action was commenced, Plaintiff Krystal Ybarra was, and continues to be, a resident of the State of Texas.

7. Defendant STANDARDAERO AVIATION HOLDINGS, INC. was at the time this action was commenced, and still is, a corporation formed pursuant to the laws of the State of Delaware. StandardAero Aviation Holdings, Inc.'s principal place of business is located in Scottsdale, Arizona. StandardAero Aviation Holdings, Inc. was, and still is, a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 6710 North Scottsdale Road, #250, Scottsdale, AZ 85253. Therefore, Defendant is not a citizen of the State of Texas for purposes of federal diversity jurisdiction.

8. In her First Amended Original Petition, Plaintiff states that she seeks monetary relief over \$250,000 but not more than \$1,000,000.¹

¹ See Plaintiff's Amended Original Petition at ¶ 21, included with the Index of State Court Papers attached as Exhibit "A."

Removal is Procedurally Correct

9. This Notice of Removal is filed within thirty (30) days of the service of citation and Plaintiff's Amended Petition upon Defendant as required by 28 U.S.C. § 1446(b). There exists an actual and justiciable controversy between Plaintiff and Defendant with regard to legal issues herein and this controversy is within the jurisdiction of the Court.

10. Venue is proper in this district under 28 U.S.C. § 1446(a) because this district and division embrace the place in which the removed action is pending and because a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this district and division.

11. Pursuant to 28 U.S.C. § 1446(a), attached as Exhibit "A" hereto is an *Index of State Court Papers* and copies of all process, pleadings, orders, and the docket sheet on file in the state court lawsuit. Additionally, attached as Exhibit "B" is a *List of Parties and Counsel* relating to this action. Attached as Exhibit "C" hereto is an *Index of Matters Being Filed* in this action. Each of the exhibits is incorporated herein and made a part hereof for all pertinent purposes.

12. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to the Plaintiff promptly after Defendant STANDARD AERO AVIATION HOLDINGS, INC. files this Notice.

13. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the District Clerk, Bexar County, Texas promptly after Defendant STANDARD AERO AVIATION HOLDINGS, INC. files this Notice.

WHEREFORE, DEFENDANT STANDARDAERO AVIATION HOLDINGS, INC. respectfully requests that the above-captioned action now pending in the 408th Judicial District Court of Bexar County, Texas be removed to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT
STANDARDAERO AVIATION HOLDINGS,
INC.**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing **Defendant StandardAero Aviation Holdings, Inc.'s Notice of Removal** was electronically filed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following individual(s), on the 10th day of March 2022.

e-serve@wyattlawfirm.com

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